

CURRENT ISSUES IN CLASSIFICATION AND CENSORSHIP



Stephen Mason
Photography: John Halfhide

*On 6 October in Sydney the Office of Film and Literature Classification held an inaugural public forum on censorship and classification issues. The forum is one way in which the Government and the OFLC are responding to the challenge posed by the ALRC's recommendations in its report on Censorship. Commissioner Stephen Mason was there.**

The Law Reform Commission became involved in censorship and classification matters in 1990 when the then federal Attorney-General Mr Michael Duffy asked it to report on how federal, State and Northern Territory laws about classification and censorship could be made simpler and more efficient. The Commission reported in 1991, having prepared its report after its usual process of public consultation and in the light of well over 150 submissions from the industry and members of the public.

The policy of censorship and classification

The Commission was asked to look at the procedure and mechanics of censorship only. It was not asked to look at the substantive questions: what films or videos ought to be censored and the standards against which they should be classified. Those questions are resolved by the

political process and I think that it is right that they should be resolved in this way. The Commission's terms of reference for its project explicitly recognised this: they specifically asked us to make sure that our recommendations on the way censorship and classification decisions were made gave effect to the policies that underlie the present laws. The basis of these policies was agreed in 1984:

- adults are entitled to read, hear and see what they wish in private and in public
- people should not be exposed to unsolicited material offensive to them
- children must be adequately protected from material likely to harm or disturb them.

How film censorship and classification works

The objective of censorship laws is to regulate the availability of films within the broad frame-

work of general community standards. They do this by establishing a system that classifies films within a series of broad categories, such as, for films, R, MA or M. All films (including videos) for public exhibition or sale must be classified. The sale of X films is prohibited except in the Northern Territory and the Australian Capital Territory. Even there, they can only be sold as videos (and then only to adults), not shown publicly. Children may not attend the screening of R films or buy or hire R videos. There are restrictions on advertising, copying and possessing certain films and there are requirements to provide information about classifications.

Film and culture

Films — cinema and video — are now an integral and important part of modern culture. Indeed, some would hold that they define our culture;

that they are the most accessible, and therefore the most potent and effective, of the ways in which we communicate our culture and our values to ourselves and to others. And communicating our values to ourselves is an important way of reinforcing those values.

Film as art

Film is an art. But it is art with a difference, in fact, with several differences.

- It is an art for the masses.
- It is a commercial art, and as such is big business. The commercial imperative in many instances overrides the artistic imperative.
- In the hands of the master film maker, film can speak deeply and significantly to us, telling us things about ourselves and about how we live that we would not otherwise know or perceive. But film also lends itself easily to the spectacular, the superficial and the sensational, not so much speaking to us as yelling at us or dazzling us, with dinosaurs, spaceships or explosions.

Violence and our self-definition

The power of film is such that it is an important way in which we, as a community, define, refine, hand on and reinforce for ourselves our view of ourselves as a society and the values that we live by. As a mass medium, films define our culture and reinforce our corporate values. Attention is increasingly being directed at the extent to which our society is a violent one. As part of that, the portrayal of violence in films and videos is under increasing scrutiny. What are the values and culture of the society that film shows us today? Does the spectacular violence of

some films reinforce a culture that many see as increasingly violent? Are those values that violent film is passing on to us the values that we would choose to live by?

Freedom to choose

Films, like other art forms, do not exist in a vacuum. They depend on our responding to them, emotionally and intellectually. We, as individuals watching a film or reading a book, continually make judgments about what we see and hear, as we respond. And just as we as individuals choose to affirm some work and reject others, so as a community we have a right to make judgments about the way our life, and human life in general, is presented to us in films. If, as I have suggested, film is an important way in which we define ourselves as a community and pass on our vision of ourselves, we have, as a community, the obligation to judge these reflections of ourselves that film presents, affirming some and rejecting those that espouse values contrary to those we hold. Because these judgments are made at a community level, not at an individual level, and because we should as a community value the right of adults to make judgments for themselves, an economy, a minimum of censorship is desirable. Thus, under present policy, child pornography is banned, as are films that

- depict, express or otherwise deal with matters of sex, drug misuse or addiction, crime, cruelty, violence or revolting or abhorrent phenomena in such a way that they offend against the standards of morality, decency and propriety generally accepted by reasonable adults to the extent that they should not be

classified; or

- promote, incite or instruct in matters of crime or violence.

Classification, judgments and criteria

The way we presently fix and apply the standards to make these judgments, as a community, is to have the law state the standards and public officials apply them. Essentially, censorship and classification decisions are made on a judgment of how much the material offends, or is likely to offend, the standards or sensibilities of the reasonable adult. The classifying bodies are intended to represent the community and interpret and apply the criteria for the community in a way the community wants.

It was apparent from the submissions that the Commission received in the course of its inquiry that not everyone is satisfied that the Film Censorship Board is interpreting the criteria in accordance with community standards. The way in which classification and censorship decisions can become divorced from community values was more recently shown in relation to the film *Salò*. I will not rehearse the dreary and unedifying contents of this film. The Senate Select Committee on Telecommunications Technology recently examined the way in which this film, banned for many years, was given an R certificate. A reading of the Board of Review's decision seems to indicate that the Board had regard to assurances from the distributor as to cinemas in which the film would be shown. Apart from the fact that there is no way of ensuring that these assurances would be honoured, under the law how the film is to be distributed is simply not relevant to the question whether it offends community standards.

Improving public involvement in censorship and classification

Only public involvement — continued public involvement — in the censorship and classification process will ensure that censorship and classification decisions do reflect community values. The Commission clearly recognised this fact. Its report made a number of recommendations to this end. They include:

- *Consultation and research program.* The Office of Film and Literature Classification should conduct a continuing consultation and research program to ensure that members of the Classification Board and the Review Board are kept up to date with the attitudes and values of the wider community. Funding for this program should be a permanent part of the Office's budget.
- *Public awareness campaign.* The current public awareness campaign should become a continuing function of the Office of Film and Literature Classification.
- *Changes to the law.* Proposed changes to the classification code or to the federal Act (in respect of classification procedure) should be made available for public comment three months before being adopted.
- *Changes to censorship guidelines.* Draft guidelines and amendments should be released for public comment for at least three months before being issued by the Attorney-General.
- *Reconsideration of classification and censorship decisions.* The Classification Review Board should continue to be the body that has the function of reconsidering decisions of the Classification Board, both for films and for publications. The Attorney-General, the applicant for classification and the distributor of the film or of the publication should be able to apply for a reconsideration.
- *Public involvement in reconsideration of classification and censorship decisions.* Standing to apply for reconsideration of decisions should be widened to include any person, provided he or she is not merely meddling or

acting in bad faith and provided he or she is not appealing from a merely advisory classification (G, PG, M) to another advisory classification.

- *Qualifications of censors and classification officers.* There should be no special qualifications for members prescribed by legislation but in making appointments to the Board, regard should be had to the desirability of ensuring that its membership is broadly representative of the Australian community.

Conclusion

The forum is an important and welcome initiative. Dialogue between the community and the censors is clearly an important step along the way towards ensuring that censorship and classification decisions reflect the values and standards of the wider Australian community.

* Stephen Mason left the ALRC in October to join the law firm of Blake Dawson Waldron as a special counsel where he will be a member of its national funds management practice. See *Personalia* page 46.



L to r: Stephen Mason, John Dickie, Chief Censor, OFLC, David Heines, Deputy Chief Censor, OFLC, Professor Duncan Chappell, Director AIC
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